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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,608	02/11/2000	Kira Sterling Attwood	RSW00-0010	6907

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EXAMINER

TRAN, ELLEN C

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PR9

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/503,608	ATTWOOD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ellen C Tran	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All   b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**NORMANN WRIGHT**  
**PRIMARY EXAMINER**

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

***Detailed Action***

1. This action is responsive to communication: original application filed February 11, 2000.
2. Claims 1- 8 are currently pending in this application. Claims 1, 3, 5, and 7 are independent claims.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 - 6 are rejected under 35 U.S.C. 102(a) as being anticipated by Smith U.S Patent No. 5,878,224 (hereinafter '224).

4. **As to independent claims 1**, '224 discloses "A method of preventing a flooding attack on a network server" in col. 2, lines 50-51 "by implementing a method for preventing overload of a network server by messages received"; '224 taught "a large number of connectionless datagrams are received" in col. 1, lines 35-38 "Service demand volatility threatens the integrity of the services that such network servers provide. In an environment of rapid service introduction, ordinary traffic engineering may not keep pace with the growth"; '224 taught "determining, in response" ... "a prescribed threshold" in col. 5, lines 29-33 "the output of a server overload controller is a computed value"; '224 taught "discarding the datagram" in col. 5, lines 59-60 "D denotes the number of dropped messages in the present interval".

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5. **As to independent claims 3,** "Apparatus for" is taught in '224 col. 2, lines 62-63

"The invention also comprises an apparatus for preventing overload of a network server". "Apparatus for" the method described in claim 1 is disclosed in '224 as cited above in paragraph number 4 above.

6. **As to dependent claims 2 and 4,** '224 discloses "calculating the prescribed threshold by multiplying a percentage" in col. 12 line 48 – col. 13 line 3 "One possible implementation of admission factors is by percent-blocking".

7. **As to independent claim 5,** '224 discloses "A storage media containing program code segments" in col. 4, lines 54-68 "will recognize that one or more of the functions performed by computer program code in controller 400 can be implemented". The remainder of claim 5 "preventing a flooding attack on a network server" to "discarding the datagram" was also taught in '224 as disclosed in paragraph number 4 above.

8. **As to dependent claim 6,** '224 discloses "calculating the prescribed threshold by multiplying a percentage" in col. 12 line 48 – col. 13 line 3 "One possible implementation of admission factors is by percent-blocking".

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over '224, in view of Yohimura U.S Patent No. 6,125,397 (hereinafter '397).

- **As to independent claim 7**, '224 discloses "A storage media containing program code segments" in col. 4, lines 54-68 "will recognize that one or more of the functions performed by computer program code in controller 400 can be implemented". The remainder of claim 7 "preventing a flooding attack on a network server" to "discarding the datagram" was also taught in '224 as disclosed in paragraph number 4 above.
- "A carrier wave containing program code" are not included in '224 but are taught in '397 col. 21, line 56 – col. 22 line 20 "A carrier wave encoded to transmit a control program that is readable by a computer performing data transfers over a network, the computer program including instructions for causing the computer to execute the steps of: detecting congestion on the network"

- It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify a method of preventing flooding attack to include a method taught in '397 of a carrier wave. One of ordinary skill in the art would have been motivated to perform such a modification because the ability to prevent flooding on an network server is the same motivation as prevent congestion as stated in patent '397 (see col. 3, lines 47 et seq.)"Recently, the amount of data requested by applications has increased sharply. However, LAN is also requested to accept conventional small amount of data (e.g. control data) simultaneously. Therefore, it is a desirable for a network to have the merits of the two types of the congestion control methods described above".

**11. As to dependent claim 8,** '224 discloses "calculating the prescribed threshold by multiplying a percentage" in col. 12 line 48 – col. 13 line 3 "One possible implementation of admission factors is by percent-blocking".

### **Conclusion**

**12.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Yin	U.S. Patent No. 6,219,728	issued dated: Apr.17, 2001
Yamane et al.	U.S. Patent No. 6,317,786	issued dated: Nov.13, 2001

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is (703) 305-8917. The examiner can normally be reached on 6:30 am to 3:30 pm Monday - Thursday and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
NORMAN M. WRIGHT  
PRIMARY EXAMINER